

The Wisconsin Department of Transportation adopts an order to amend TRANS 201.01; and create TRANS 201.23 and ch. TRANS 202, relating to the Wisconsin scenic byways program.

ORDER ADOPTING RULE**Analysis Prepared by the Wisconsin Department of Transportation**

STATUTORY AUTHORITY: ss. 84.106, 85.16 and 227.11, Stats.,

STATUTES INTERPRETED: s. 84.106, Stats.

Plain Language Analysis. In 1999 Wisconsin Act 9, the Wisconsin Legislature created § 84.106, Stats., mandating that the Department of Transportation develop, implement and administer a state scenic byways program. This statute also directed the Department to promulgate rules for the program consistent with 23 U.S.C. 162 and regulations established under that section. The purpose of this rule making is to adopt rules to create a Wisconsin scenic byways program consistent with the regulations of the Federal Highway Administration (FHWA) for the national scenic byways program published in the Federal Register on May 18, 1995. This rule making will create ch. Trans 202 to implement a Wisconsin scenic byways program. A Scenic Byways Advisory Committee consisting of a representative from the Department of Tourism, Department of Commerce, Department of Natural Resources, Wisconsin State Historical Society, four at-large members appointed by the Secretary of the Department of Transportation and the chairperson of the senate and assembly standing committees having jurisdiction over transportation matters is created to review applications for designation of Wisconsin scenic byways. The nomination procedure must be initiated by at least one local government sponsor. The Scenic Byway Advisory Committee will make recommendations to the Secretary of the Department of Transportation who has the authority to make designation decisions. In Wisconsin, state scenic byways must be state trunk highways other than interstate highways and must have exceptional scenic or historic qualities. The nomination process may involve two stages. In the first stage of the process, an application is reviewed to see if the proposed route has a reasonable potential for designation as a state scenic byway. The second stage of the process will require the development by the local government sponsors of a corridor management plan. The Department of Transportation will monitor the implementation of such plans on designated scenic byways. The rule also creates a new section in ch. Trans 201 to provide for the control of new outdoor advertising signs along state trunk highways designated as state scenic byways.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation. The Intermodal Surface Transportation Efficiency Act 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, mandated the establishment of a national scenic byways

program. Section 1047 of the ISTEA set up an advisory committee to assist the U.S. Secretary of Transportation in establishing a national program. The committee was composed of 17 members including a designee of the Administrator of the FHWA, appointees of U.S. Forest Service, the National Park Service, the Bureau of Land Management, the Bureau of Indian Affairs, the U.S. Travel and Tourism Administration of the Department of Commerce, and individuals representing the interests of recreational users of scenic byways, conservationists, the tourism industry, historic preservationists, highway users, state and local highway transportation officials, the motoring public, scenic preservationists, the outdoor advertising industry, and the planning professions. Following the report of the committee, the FHWA adopted an interim policy for the National Scenic Byways Program which was published in the Federal Register on May 18, 1995. (Vol. 60, No. 96, p. 26759) No federal rules have been adopted and the program is administered in accordance with the interim policy.

The policy sets forth criteria for the designation of National Scenic Byways or All-American Roads based on their scenic, historic, recreational, cultural, archeological and/or natural intrinsic qualities. To be designated as a National Scenic Byway, a road or highway must significantly meet at least one of the six intrinsic qualities listed above. To be designated as a All-American Road, the road or highway must meet the criteria for at least two of the six intrinsic qualities. To be designated, the road or highway must safely and conveniently accommodate two-wheel drive automobiles, conventional tour buses and, where feasible, bicycle and pedestrian travel. Designations are made by the U.S. Secretary of Transportation after consultation with the Departments of the Interior, Agriculture and Commerce. A panel of six to eight experts designated by the FHWA may assist in the review of highways nominated for designation as National Scenic Byways or All-American Roads.

The policy provides that any highway submitted for designation by state or federal agencies should first be designated as a State Scenic Byway. All nominations for National Scenic Byways or All-American Roads must be submitted by the state agency responsible for administering the state's scenic byway program activities. A corridor management plan must be submitted with each nomination. A corridor management plan is a written document that specifies the actions, procedures, controls, operational practices and administrative strategies to maintain the scenic, historic, recreational, cultural, archeological and natural qualities of the nominated scenic byway. The plan is intended to provide an effective management strategy to balance conservation and enhancement of the byway's intrinsic qualities as well as promotion of tourism and economic development.

Under the federal program, states may apply for discretionary grants for the purpose of planning, designing and developing state scenic byways programs, including the development of corridor management plans; developing state scenic byways to make them eligible for designation as National Scenic Byways or All-American Roads; and enhancing or improving designated National Scenic Byways or All-American Roads. All grant applications must be submitted to the FHWA by the state highway agency.

The FHWA regulations also provide that if a state has a state scenic byway program, the state must control outdoor advertising as provided in 23 U.S.C. 131(s) along any highway on the interstate or primary highway system that is designated as a scenic byway under the state's program. The states must apply the same controls to any National Scenic Byway and All-American Road whether or not they are designated as state scenic byways.

The rule is consistent with and follows the FHWA interim policy on the national scenic byway program quite closely. This includes the use of an advisory body to evaluate and make recommendations regarding designation of routes to be added to the program and a two tier nomination process. The rule provides for consideration of the intrinsic qualities used by the FHWA policy as criteria for evaluation of potential scenic byways. Scenic quality is necessary for designation as a Wisconsin scenic byway with other qualities being complementary. The rule making also provides for the control of outdoor advertising consistent with the FHWA regulations which require that if a state has a state scenic byway program, the state may not allow the erection of new signs not in conformance with 23 U.S.C. 131(c) along any highway on the interstate or Federal-aid primary system which is designated as a state or national scenic byway or All-American Road.

Comparison with Rules in Adjacent States: The states of Iowa, Illinois, Michigan and Minnesota all have established state scenic byways programs as follows:

Michigan: The Michigan byways program is called Michigan Heritage Routes and is mandated by state statute. (MCL 247.951 to 247.958) Heritage routes are limited to state trunk highways. Criteria for selection of heritage routes and procedures for designation were approved by the Legislature but are not promulgated as administrative rules. The program policy identifies three types of heritage routes: historic, scenic or cultural. Nominations for designation are made to the Department of Transportation by local government sponsors. The program encourages local governments and stakeholders to engage in planning for adjacent land uses consistent with the intent of the designation including outdoor advertising signs along scenic heritage routes. The Heritage Route Program dates from June 22, 1993.

Minnesota: The state scenic byways program is managed by the Minnesota Scenic Byways Commission. The Commission was created by a memorandum of understanding between the Department of Transportation, the Department of Natural Resources, Minnesota Historical Society, and the Office of Tourism of the Department of Trade and Economic Development. The MOU became effective June 12, 1992. The Commission is responsible for final designation of routes with the Department of Transportation taking the lead role. Nominations originate locally and were open yearly for the first three years and once every five years thereafter. All categories of public roads are eligible for nomination and local authorities having jurisdiction over the routes must approve designation. The program is organized on the basis of thirteen "recreational landscape" regions identified by the Department of Natural Resources. Outstanding scenic quality with natural or cultural resources representative of each region

is the primary criteria for designation. The jurisdictions through which the designated routes pass must have ordinances to control outdoor advertising consistent with 23 U.S.C.131(s). The Minnesota Department of Transportation also enforces the provisions of 23 U.S.C. 131(s).

Illinois: The Illinois scenic byways program is mandated by statute. The program consists of a process for the Illinois Department of Transportation to nominate to the U.S. Department of Transportation routes for designation as National Scenic Byways or All-American Roads. (225 ILCS 440, sec. 14.02) To be nominated, the highways or roads must possess any of the six intrinsic qualities specified by the FHWA; must accommodate 2-wheel drive vehicles and, where feasible, bicycle and pedestrian traffic; have a corridor management plan meeting federal requirements and developed with community input; business and property owners must receive notice from the appropriate local unit of government that a nomination is pending and must have the opportunity to comment; and must not contain sections that traverse business areas. On highways that have received designation as a National Scenic Byway or All-American Road and which are interstate or primary highways, the statute prohibits the erection of new outdoor advertising signs except for those signs permitted by federal law in 23 U.S.C. 131(s). (225 ILCS 440, sec. 5) The statutes creating the Illinois byways program were effective August 2, 1996.

Iowa: The scenic byways program is mandated by statute. (Ch. 306D of the Iowa Statutes) The Iowa Department of Transportation has adopted rules to implement its program. The rules create a scenic byway advisory council comprised of representatives from the Department of Transportation, the Department of Economic Development, the Department of Cultural Affairs, and the Department of Natural Resources. The council selects the routes to be designated after the Iowa Department of Transportation inventories and evaluates applications for designation. There is a two-year cycle for nominations with specific deadlines for key steps in the evaluation process. Primary roads, secondary roads and city streets are eligible for designation as scenic byways and each city and county, through which a route passes, must approve the scenic byway designation. The designation is based on the scenic qualities of the proposed routes. (Ch. 132 of the Iowa Administrative Code) The Iowa legislature also directed the Iowa Department of Transportation to adopt rules to control outdoor advertising along scenic byways in order to comply with federal requirements for implementation of a scenic byways program. (95 Acts, ch. 135, § 4; 306D.4 of the Iowa statutes) In 761-Ch. 117.3 of the Iowa Administrative Code, the rule provides that no new off-premise advertising device may be erected along an interstate, freeway-primary or primary highway that has been designated as a scenic byway if the advertising device will be visible from the highway.

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: The Secretary of the Department of Transportation appointed a sixteen (16) member advisory group to recommend procedures and criteria for a Wisconsin scenic byways program. The members of the advisory group were: Rep. Sheryl Albers (Joint Committee on Finance);

Sen. Roger Breske (Senate Committee on Transportation); Gary Brunner (Department of Transportation); Mary Jo Carson (Department of Commerce); Dennis Fay (Department of Tourism); Richard Dexter (State Historical Society); Kelly Haverkamp (Wisconsin Rural Partners); Martin Holden (Bay Lake Regional Planning Commission); Tom Howells (Wisconsin Motor Carriers Association); Rob Kennedy (Citizens for a Better Environment); Lisie Kitchel (Department of Natural Resources); Larry MacDonald (Mayor, City of Bayfield); Phil Scherer (Transportation Development Association of Wisconsin); Tom Solheim (Rustic Roads Board); Ernie Stetenfeld (AAA of Wisconsin); and Rep. Jeff Stone (Assembly Committee on Transportation). The advisory group unanimously endorsed the following program structure.

A scenic byway should be a state trunk highway; should be at least 30 miles long; should exclude interstate and Corridor 2020 backbone routes; should not be scheduled for or have anticipated improvement projects; should have scenic qualities as its primary characteristic and have local government sponsors to demonstrate local support. A two-step application process was recommended with an initial screening followed by a more formal application. The review of applications should be performed by an advisory body consisting of representatives from the Department of Tourism, Department of Commerce, Department of Natural Resources and the State Historical Society. The advisory group should make recommendations to the Secretary of the Department of Transportation who makes the final decision on designation. The advisory group will also include the chairpersons of the Senate and Assembly standing committees having jurisdiction over transportation matters and two at-large members appointed by the Secretary of the Department of Transportation. Designation as a scenic byway should not inhibit or prevent safety or capacity improvements, stop private development from occurring, invoke or trigger smart growth legislation or requirements, nor should scenic byways be considered rustic roads.

This rule making implements the recommendations of the advisory group.

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: The provisions of this rule creating a process for the designation of state trunk highways as scenic byways have no direct affect on small businesses. It is expected that designation of a highway segment as a scenic byway will increase tourism to the area which may have an indirect positive effect on local small businesses especially those that provide goods and services to tourists such as restaurants, hotels and motels, gift shops, and similar businesses.

Fiscal Effect and Anticipated Costs Incurred by Private Sector: The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The designation of a segment of a state trunk highway as a state scenic byway may make a county or municipality eligible to apply for and receive grants of federal funds for enhancement projects related to the scenic byway. The Department estimates that there will be no

impact on state or private liabilities or revenues. Administration of the program by the Department will be absorbed by existing staff and resources.

Copies of Rule: Copies of the rule may be obtained, without cost, by writing to Jane Carrola, Department of Transportation, Division of Transportation Investment Management, Bureau of Planning, Room 901, P. O. Box 7913, Madison, WI 53707-7913. You may also contact Ms. Carrola by phone at (608) 266-0649, or via e-mail: jane.carrola@dot.state.wi.us.

TEXT OF RULE

SECTION 1. Trans 201.01 is amended to read:

Trans 201.01 General. Pursuant to authority contained in ss. 84.106, 84.30 and 86.19, Stats., the department of transportation adopts the following rules to apply to signs along and visible from the controlled highways in Wisconsin. Section 84.30, Stats., and these rules apply to the interstate system, federal aid primary or national highway system, and the Great River Road established under 23 USC 148, which are referred to herein as “controlled highways.” These rules are so closely associated with the Wisconsin Statutes, and make such extensive reference to s. 84.30, Stats., that it is essential to refer to both these rules and the law in order to apply the controls. This chapter shall be interpreted consistently with the requirements of the 23 USC 131 federal regulations related to outdoor advertising control at 23 CFR Part 750, ~~and the agreements between the state of Wisconsin and the U.S. federal highway administration dated June 9, 1961 and March 28, 1972,~~ and with regulations and policies of the U.S. department of transportation implementing a national scenic byways program under 23 USC 162.

SECTION 2. Trans 201.23 is created to read:

Trans 201.23 Scenic byways. (1) In this section:

(a) “All-American Road” has the meaning provided in s. Trans 202.02(2).

(b) “Great River Road” has the meaning provided in s. 84.107, Stats.

(c) “National Scenic Byway” has the meaning provided in s. Trans 202.02(9).

(d) “Scenic byway” means the Great River Road and any other public highway or portion of a public highway designated as a Wisconsin scenic byway pursuant to s. 84.106, Stats., or designated as a National Scenic Byway or an All-American Road pursuant to 23 USC 162.

(2) After the effective date of this section...[revisor insert date], no sign visible from the main-traveled way of highway that is a scenic byway may be erected except the following:

(a) Directional and other official sign authorized by s. 84.30(3)(a), Stats.

(b) Signs advertising the sale or lease of property upon which they are located authorized by s. 84.30(3)(b), Stats.

(c) Signs advertising activities conducted on the property on which they are located authorized by s. 84.30(3)(c), Stats.

SECTION 3. Chapter Trans 202 is created to read:

WISCONSIN SCENIC BYWAYS PROGRAM

Trans 202.01 Purpose and scope. (1) As required by s. 84.106, Stats., this chapter establishes a Wisconsin scenic byways program. This chapter establishes the criteria and procedures to be used by the secretary to designate portions of the state trunk highway system as a scenic byway when the highway corridor possesses unusual, exceptional, or distinctive scenic features.

(2) The purpose of this chapter is to identify, designate, promote and preserve a system of state trunk highways recognized for their outstanding scenic views and ability

to offer travelers an exceptional travel experience. These byway corridors shall highlight the best scenic qualities along with the natural, historic, archeological, cultural and recreational opportunities available in Wisconsin. Program participation may increase roadway corridor recognition, increase marketing potential, promote community consensus building, aid in preservation of resources, and increase eligibility for federal or state funding for certain byway related projects along the corridor.

Trans 202.02 Definitions. The words and phrases defined in s. 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) “Action items” mean the specific activities, procedures, controls, operational practices and administrative strategies that are undertaken as part of a corridor management plan to maintain and promote the scenic, historic, recreational, cultural, archeological and natural qualities of the scenic byway.

(2) “All-American Road” means a public highway that has been designated by the federal government as satisfying national scenic byway criteria and the additional criteria and requirements for designation as an “All-American Road.”

NOTE: A road should first be designated as a state scenic byway before national designation may be pursued. The criteria are set forth in the interim policy for the National Scenic Byway Program published in the Federal Register on May 18, 1995, at page 26759 of Vol. 60, No. 96.

(3) “Corridor” means the highway right-of-way and the area adjacent to and extending along the right-of-way that is visible from the roadway of a designated Wisconsin scenic byway.

(4) “Corridor management plan” or “CMP” means a written document authored by the local government sponsor that serves as the coordinating plan by which the

scenic, historical, recreational, cultural, archeological and natural qualities on a designated byway are maintained and promoted.

(5) “Great River Road” has the meaning provided in s. 84.107, Stats.

(6) “Historic resources” mean the distinctive, visible sites or structures that demonstrate an important part of Wisconsin history that can help to educate viewers and help foster an appreciation of the past.

(7) “Local government” means a county, town, village, city or tribal government.

(8) “Local government sponsor” means a local government through whose jurisdiction a proposed Wisconsin scenic byway passes or a local government that is adjacent to a proposed scenic byway and that formally initiates the application process.

(9) “National Scenic Byway” means a public highway, designated pursuant to 23 USC 162 as satisfying the federal criteria for a national scenic byway.

NOTE: A road should first be designated as a state scenic byway before national designation may be pursued. The criteria are set forth in the interim policy for the National Scenic Byways Program published in the Federal Register on May 18, 1995 at page 26759 of Vol. 60, No. 96.

(10) “Scenic byways advisory committee” or “SBAC” means the committee appointed by the secretary to review applications from local government sponsors and to recommend to the secretary whether an application for designation of a state trunk highway as a scenic byway should be approved.

(11) “Scenic qualities” are a combination of natural and manmade features that give remarkable character to the visual landscape, are striking in appearance and provide a pleasing and memorable experience to travelers.

(12) “Sign” has the meaning provided in s. 84.30(2)(j), Stats.

(13) “Traffic control device” means a sign, marking or traffic control signal erected or placed within the right of way of a public highway by the government unit having jurisdiction over the highway for the purpose of guiding, warning or regulating traffic upon the highway.

(14) “Wisconsin scenic byway” means a state trunk highway or combination of state trunk highways that has special scenic qualities or historic resources and may in addition have special scenic, historic, recreational, cultural, archeological, or natural qualities that is designated as a scenic byway by the secretary pursuant to s. 84.106, Stats.

Trans 202.03 Previously designated scenic byways. (1) Any roadway previously designated as a scenic, historic, or recreational route or some combination thereof, either by legislative or by administrative action, may also be designated as a Wisconsin scenic byway upon satisfaction of the administrative process for the Wisconsin scenic byways program pursuant to s. 84.106, Stats.

(2) The Great River Road was designated by the secretary as a Wisconsin scenic byway under s. 84.106, Stats., on June 24, 1999. The provisions of ss. Trans 202.05, except Trans 202.05(3)(b), 202.06 and 202.07 do not apply to the Great River Road.

Trans 202.04 Scenic byways advisory committee membership. (1) The SBAC shall consist of all of the following:

(a) One representative from each of the following state agencies nominated by the respective agency and appointed by the secretary:

1. Wisconsin department of tourism.

2. Wisconsin department of commerce.
3. Wisconsin department of natural resources.
4. Wisconsin state historical society.

(b) Four members at large appointed by the secretary.

(c) The chairpersons of the senate and assembly standing committees having jurisdiction over transportation matters as determined by the speaker of the assembly and the president of the senate.

(2) The state agency representatives and the members at large shall be appointed by the secretary in staggered 4-year terms.

Trans 202.05 Qualifications for scenic byway designation. (1) The majority of the route proposed as a Wisconsin scenic byway shall have scenic qualities or historic resources, which are unique to the route. Scenic qualities or characteristics shall be as continuous as possible throughout the corridor. The majority of historic resources shall be eligible for, or listed on the National Register of Historic Places, be numerous, be visible, and have a setting or character that is complimentary to the historic resources.

(2) The route shall be on the state trunk highway system and be approximately 30 miles in length at a minimum and, where feasible, provide a completed closure or loop or connect to major highways at both ends of the route. The route may contain municipal streets or highways that the department has designated as connecting highways and that are marked as part of the state trunk highway system.

(3)(a) A proposed scenic byway route does not include a section of highway that traverses a business area unless the appropriate local government specifically includes

the area in the proposed scenic byway route by means of a formal resolution. In unincorporated areas where county zoning is in effect, a resolution of the county board is also required. The proposed route shall be as continuous as possible.

(b) Each local government through which the Great River Road passes shall be given an opportunity to exclude business areas from the Great River Road Wisconsin scenic byway route. A request to exclude a business area shall be submitted to the department in writing, shall contain a map identifying the business area or business areas to be excluded and shall contain a copy of a resolution passed by the local government's governing body supporting the request. In unincorporated areas where county zoning is in effect, the request shall also contain a resolution from the county board of the appropriate county supporting the request. A request under this paragraph shall be received by the department no later than 2 years from the effective date of this chapter...[revisor insert date].

(c) For purposes of this subsection, "business area" means any portion of a highway where there are contiguous abutting parcels of land zoned for business, industrial or commercial activities or unzoned and used for business, industrial or commercial activities as defined in s. 84.30(2)(d), Stats.

(4) The interstate system is not eligible for scenic byway designation.

(5) Scenic, historical, archeological, cultural, recreational and natural features and characteristics may be considered complimentary to the scenic features or historic resources of the proposed route. They may be documented and submitted as part of the application.

(6) The proposed route may not be scheduled or anticipated for major improvements that would significantly diminish its scenic characteristics. If there are scheduled or anticipated major improvements, the SBAC may consider the application after the improvements are made or after the improvements are well defined in approved plans.

Trans 202.06 Application procedure. (1) Application to have a route designated as a Wisconsin scenic byway is voluntary. Interested parties seeking designation may include residents, organizations and local governments. The responsibility for identifying a suitable route for scenic byway designation rests with the aforementioned groups.

(2) There shall be at least one local government sponsor who initiates the application procedure.

(3) The department shall design the application form and determine the completeness of responses from local government sponsors. The department may require preliminary information from the local government sponsor to determine if the proposed route has a reasonable potential for being designated as a state scenic byway. Resolutions from local governments abutting the proposed route may be required.

NOTE: The application form may be obtained upon request by writing to the Department of Transportation, Division of Transportation Investment Management, Bureau of Planning, Room 901, P. O. Box 7913, Madison, WI 53707-7913.

(4) A corridor management plan shall be prepared by the local government sponsor after the route's potential has been confirmed by the SBAC, but before final designation takes place.

(5) The SBAC shall evaluate the application materials and make a recommendation to the secretary on the approval or denial of the request to designate the proposed route as a scenic byway.

(6) The secretary shall make the decision to approve or deny an application for designation of the proposed route as a scenic byway.

Trans 202.07 Reviewing and monitoring of Wisconsin scenic byways. The department shall review the approved CMP of a designated scenic byway on a periodic basis to insure that the local government sponsor has implemented the action steps in its CMP. The department shall notify the local government sponsor of the results of the review. In the case of uncompleted action items, the department and local government sponsor shall coordinate to develop a schedule and timeline to implement the remaining action items or to amend the remaining action items in a mutually agreeable manner. Failure to address the uncompleted action items in a timely manner may result in withdrawal of scenic byway designation.

Trans 202.08 Jurisdiction and authority. Designation of a state trunk highway as a scenic byway does not affect the department's jurisdiction over the highway. The department retains the authority to maintain and improve the highway in order to serve the traveling public.

Trans 202.09 Maintaining and improving a state scenic byway. Designation as a Wisconsin scenic byway is not intended to prohibit or affect future roadway design or construction and does not change the existing state or federal classification of the highway. Designation as a Wisconsin scenic byway shall not be a factor in department

decisions on whether or not a highway improvement project is necessary or appropriate for the designated highway.

Trans 202.10 Traffic control devices and route markings. (1) The department may furnish and install signs to mark and identify all officially designated scenic byways.

(2) The scenic byways marking signs may be placed on existing information or highway identification sign posts but may not be placed on any regulatory or warning sign posts.

(3) All traffic control devices shall be erected and maintained in accordance with chs. 84, 86 and 349, Stats., and ch. Trans 200.

(4) Scenic byways signing shall be removed on highways that are no longer designated as scenic byways.

Trans 202.11 Outdoor advertising. Highways designated by the secretary as scenic byways pursuant to s. 84.106, Stats., are subject to all applicable state laws and regulations and local ordinances regarding outdoor advertising signs. Highways designated as scenic byways shall also conform to s. Trans 201.23.

Trans 202.12 National scenic byways program. State trunk highways designated as Wisconsin scenic byways may, upon satisfaction of the federal guidelines and recommendation by the scenic byways advisory committee, be nominated by the secretary for designation and inclusion in the national scenic byways program as a National Scenic Byway or All-American Road. A local government may be responsible for supplying additional information or photos as needed for the national application.

Trans 202.13 Modification or withdrawal of Wisconsin scenic byways designation. (1) Every 10 years following the date of official notification of designation, local units of government through which the route passes shall have the opportunity to re-evaluate the designated route and to determine if they wish to modify the route due to changes in land use or other extenuating circumstances. The local unit of government having zoning authority over the scenic byway corridor shall notify the department in writing, pass a resolution and submit a map indicating the proposed change to the designated route. In unincorporated areas where county zoning is in effect, the request shall also contain a resolution from the county board of the appropriate county supporting the request. The department may require the local government sponsor to coordinate the submission of requests for modification of the scenic byway route. Requests under this subsection shall be received by the department no later than 12 months from the 10-year anniversary date. The SBAC shall review the proposed route modifications and make recommendations to the secretary. Modifications become effective upon approval of the secretary. If the department receives no notification under this subsection that a modification is being requested, the designated route shall remain unchanged for another 10 year period.

(2) Designation of a state trunk highway as a scenic byway may be withdrawn at any time after resolution by 2/3 of the local government sponsors and with the approval of the SBAC and the secretary. There shall be at least one public hearing by a local government sponsor before such a removal.

(3) The SBAC may recommend to the secretary that a scenic byway designation for a particular state trunk highway be rescinded if the route no longer possesses the

scenic or historic character of the route originally qualifying it for designation due to overdevelopment, the presence of some other visual detractor, the failure to adequately implement the corridor management plan, or if substantial modifications to the route have taken place under sub. (1). The department may request that the SBAC review and recommend whether a scenic byway designation for a particular state trunk highway should be rescinded. If the SBAC recommends that a scenic byway designation for a particular state trunk highway be rescinded, the department shall hold a public hearing on the removal. After the public hearing is held, the designation as a scenic byway for the particular state trunk highway may be withdrawn upon approval of the secretary.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Signed at Madison, Wisconsin, this ____ day of January, 2005.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation